In the High Court of Punjab and Haryana at Chandigarh.

Civil Writ Petition No.5821 of 2000.

Date of decision:20.9.2006.

M/s Mansa Travels

...Petitioner.

Versus

Union of India and others.

...Respondents.

...

Coram: Hon'ble Mr. Justice S. N. Aggarwal.

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Present: Mr.Atul Lakhanpal Advocate for the petitioner.

Mr.M.S.Guglani,Standing Counsel for the Union of India.

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Judgment.

S. N. Aggarwal, J.

Major Harmohinder Singh (retired) started working as a Travel Agent under the name and title of M/s Mansa Travels. On his application, the respondent issued him a letter dated 7.5.1992 (Annexure P-1) recognizing him as a Travel Agent for dealing with the passport office at Chandigarh. Conditions which were laid down in this letter were complied with by the petitioner and the petitioner continued functioning as Travel Agent till January, 1994. This fact was not denied by the respondents in the written statement filed by them.

However, due to matrimonial problems of the petitioner, he could not continue with his business for some time, but, later on he applied on 5.7.1995 to the respondents for permission to continue functioning as a Travel Agent. In reply to the said pleadings, the respondents only took the plea that they had taken policy decision dated 23.7.1992 which has not been challenged by the petitioner. Thereafter the petitioner again requested the respondents for regularizing him as a Travel Agent but no satisfactory response was given by the respondents on which the petitioner filed the writ petition.

The submission of learned counsel for the petitioner was that there were some other persons who were functioning as Travel Agents with the respondents. Therefore, the policy decision dated 23.7.1992 should not stand in his way particularly when he was recognized as a Travel Agent even prior to the issuance of this policy decision. It was so pleaded by the petitioner in para No.18 of the writ petition and even the names of Travel Agents were given. This fact was admitted by the respondents in para No.18 of the written statement that more than 20 Travel Agents were functioning with the passport office. If these persons could function as Travel Agents with the respondent office in spite of the notification dated 23.7.1992, then the said policy decision cannot be made operative against the petitioner alone.

It was further submitted by the learned counsel for the petitioner that the Government of India has issued circular dated 18.7.2000 (Annexure P-17) according to which Travel Agents who

were recognized prior to the issuance of notification dated 23.7.1992 would still continue to function as Travel Agents. The issuance of this notification has not been rebutted by the respondents. Admittedly, the petitioner was issued letter dated 7.5.1992 by which he was recognized as a Travel Agent and was recognized to continue with the respondents. Therefore, under this circular dated 18.7.2000, the petitioner is entitled to function as a Travel Agent.

The petitioner has explained the reasons for which he could not conduct his business after January,1994 till he applied for continuing his business in July,1995 but he had not surrendered his rights to continue as a Travel Agent and,therefore, non-functioning of the petitioner as a Travel Agent for some period cannot be used as estoppel against him.

The petitioner has not surrendered his right to continue as a Travel Agent which was conferred upon him by the respondents vide letter dated 7.5.1992. Therefore, notification dated 23.7.1992 shall not operate against the rights which had accrued to the petitioner vide letter dated 7.5.1992. Accordingly, this writ petition is accepted and the petitioner is held entitled to continue as a Travel Agent and he will be recognized by the respondents as such and he will have dealings with the Passport Office, Chandigarh. The petitioner will, however, function as per policy of the respondents.

September 20,2006. (S. N. Aggarwal)
Jaggi Judge